

POWER OF ATTORNEY REGULATION

Definitions

- 1 In this regulation, “**Act**” means the *Power of Attorney Act*.

Records of attorneys

- 1.1 (1) In this section, “**financial institution**” means

- (a) a bank, including a corporation that is a subsidiary of a bank and is a loan company to which the *Trust and Loan Companies Act* (Canada) applies,
- (b) a credit union,
- (c) the B.C. Community Financial Services Corporation established under the *Community Financial Services Act*,
- (d) an insurance company, or
- (e) a trust company.

- (2) Subject to subsection (3), an attorney must keep the following records in relation to the period for which the attorney is acting:

- (a) except as set out in the enduring power of attorney, a copy of any record made by the adult of the adult’s wishes, beliefs and values regarding that adult’s financial affairs, as described in section 19 (2) of the Act;
- (b) a copy of all orders of the court made in relation to the adult, whether or not the attorney is also the adult’s litigation guardian;
- (c) the statements of accounts issued, in relation to the adult’s property, by financial institutions;
- (d) the records of registration issued, in relation to land, motor vehicles, manufactured homes or other property of the adult, by a provincial or federal body or agency;
- (e) the records submitted to or issued by, in relation to the taxation of the adult, the Canada Revenue Agency;
- (f) the records of appraisals made in relation to the adult’s property;
- (g) a copy of all contracts of insurance made in relation to the adult or the adult’s property;
- (h) the records necessary to create full accounts respecting the receipt or disbursement, on behalf of the adult, of capital or income.

- (3) If an adult, in the adult’s enduring power of attorney, states that the adult’s attorney is not required to keep one or more of the records described in subsection (2) (a) to (g), subsection (2) does not apply to the extent described in the enduring power of attorney.

Maximum value of gifts, loans and charitable gifts

- 1.2 For the purposes of section 20 (1) (c) of the Act, an attorney must ensure that the total value of all gifts, loans and charitable gifts in a year is not more than the lesser of
- (a) 10% of the adult’s taxable income for the previous year, and
 - (b) \$5,000.

Extrajurisdictional powers of attorney

- 1.3** (1) Subject to subsection (2), a power of attorney is deemed to be an enduring power of attorney made under the Act if the power of attorney
- (a) was made validly by a person who was, at the time of its making, ordinarily resident
 - (i) outside British Columbia but within Canada, or
 - (ii) within the United States of America, the United Kingdom of Great Britain and Northern Ireland, Australia or New Zealand, and
 - (b) continues to be effective in the jurisdiction in which it was made.
- (2) A person named as an attorney in an instrument that is deemed to be an enduring power of attorney under section 38 of the Act must not exercise, in British Columbia, any powers or duties under the instrument
- (a) that would not be permitted to be exercised by an attorney acting under an enduring power of attorney made under the Act, and
 - (b) unless both the person named as attorney and the person who makes the power of attorney are at least 19 years of age.
- (3) Sections 34 and 35 of the Act do not apply in relation to an adult or an attorney in circumstances where the attorney is acting under an instrument that is deemed to be an enduring power of attorney under section 38 of the Act, unless the adult is ordinarily resident in British Columbia.

Transition – paid caregivers as attorneys

- 1.4** If an adult, in a power of attorney that was validly made under section 8 of the Act before that section was repealed, appointed as attorney an individual described in section 18 (1) (a) of the Act,
- (a) section 18 (1) (a) of the Act does not apply, and
 - (b) the individual may continue to act as the adult's attorney.

Transition – payment and expenses of attorney

- 1.5** (1) This section applies to an attorney acting under a power of attorney that was validly made under section 8 of the Act before that section was repealed and that either
- (a) expressly authorized the attorney to be compensated for acting as the adult's attorney, but did not set the amount or rate, or
 - (b) did not expressly authorize the attorney to be compensated for acting as the adult's attorney, but did so in another document that
 - (i) was made and signed by the adult, and
 - (ii) is ancillary to the power of attorney,regardless of whether the adult set the amount or rate in the other document.
- (2) If either of the circumstances set out in subsection (1) of this section apply,
- (a) section 24 (1) of the Act does not apply, and
 - (b) the attorney may be compensated for acting as the adult's attorney in accordance with the power of attorney or other document, as applicable.